

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	COMPLAINT NO. R9-2003-270
)	FOR
PIONEER BUILDERS)	ADMINISTRATIVE CIVIL LIABILITY
RE: CASTILLO DEL MAR)	
c/o Pacific Environmental Planning))	
33862 Barcelona Place)	
Dana Point, CA 92629)	June 12, 2003
)	
<u>Attn: Mr. Paul Douglas</u>)	

PIONEER BUILDERS IS HEREBY GIVEN NOTICE THAT:

1. Pioneer Builders operates an active construction site identified as Castillo del Mar located at 35262 and 35272 Camino Capistrano in the Capistrano Beach community of the City of Dana Point. The construction site is located approximately one-half mile from the Pacific Ocean.

ALLEGATIONS

2. From January 24, 2003 through March 10, 2003, Pioneer Builders, Inc. caused or threatened to cause a condition of pollution, contamination, or nuisance at the Castillo del Mar construction site in violation of the Water Quality Control Plan, San Diego Basin-Region (9) (Basin Plan) Prohibition No. 1.
3. Between March 10, 2003 and April 15, 2003 Pioneer Builders, Inc. failed to develop and implement adequate erosion and sediment control best management practices in violation of Special Provisions for Construction Activity C.2 of Order No. 99-08-DWQ.
4. Pioneer Builders, Inc. failed to submit a complete section 401 Water Quality Certification application by April 18, 2003 in violation of Directive No. 5 of Cleanup and Abatement Order No. R9-2003-158.
5. Pioneer Builders, Inc. failed to file a Notice of Intent for coverage under Order No. 99-08-DWQ from March 10, 2003 through April 10, 2003 in violation of California Water Code Section 13373 and Order No. 99-08-DWQ.

AUTHORITY TO IMPOSE CIVIL LIABILITY

6. Pioneer Builders Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under sections 13350 and 13385 of the

California Water Code.

- a. Sections 13350(a)(1) and 13350(a)(2) state that any person who intentionally or negligently violates a cleanup and abatement order or violates a prohibition issued by a regional board shall be civilly liable.
- b. Section 13350(d)(1) provides that the maximum civil liability that a regional board may assess is five thousand dollars (\$5,000) per day of violation. Section 13350(d)(1)(A) provides that when there is a discharge, and a cleanup and abatement order is issued, the civil liability shall not be less than five hundred dollars (\$500) per day. Section 13350(d)(1)(B) provides that when no there is no discharge, but an order of the regional board is violated, the civil liability shall not be less than one hundred dollars (\$100) per day.
- c. Sections 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable.
- d. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs and where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharge but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharge but not cleaned up exceeds 1,000 gallons.

PROPOSED CIVIL LIABILITY

7. Based on consideration of the factors listed in §13385 of the California Water Code, liability should be imposed on Pioneer Builders, Inc. by the Regional Board in the amount of \$139,800 based on the information contained in *Technical Analysis, Proposed Civil Liability Contained in Complaint No. R9-2003-270, Pioneer Builders, Inc. Noncompliance with Order No. 99-08-DWQ, Cleanup and Abatement Order No. R9-2003-270, and Basin Plan Waste Discharge Prohibition No. 1.*

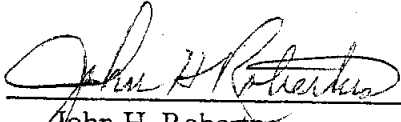
PUBLIC HEARING

8. A public hearing on this matter has been scheduled at the Regional Board meeting on:

**August 13, 2003
at the Regional Board Meeting Room
9174 Sky Park Court
San Diego, California**

9. The meeting is scheduled to begin at 9:00 a.m. A copy of the agenda for the August meeting, which provides information pertaining to submittal of information and hearing procedures, will be sent to you under separate cover approximately ten days prior to the meeting.
10. At the hearing, Pioneer Builders, Inc. will have an opportunity to be heard and to contest the allegations in the Complaint and the imposition of civil liability by the Regional Board.
11. At the hearing, the Regional Board will determine the validity of the allegations contained herein, and if the allegations are found to be true, will consider whether or not to assess civil liability in the amount proposed by this Complaint, or in some other amount. The Regional Board may refer the matter to the Attorney General for judicial assessment of civil liability (with higher maximum liabilities for each violation).

Dated this 10th day of June, 2003

By: 
John H. Robertus
Executive Officer